

**TOWN OF KITTEERY  
PLANNING BOARD MEETING**

Thursday, July 28, 2005

APPROVED  
Council Chambers

Meeting called to order at: 6:26 p.m.

Present: Ron Ledgett, Chairman Russell White, Janet Gagner, Megan Kline, Ernest Evancic, Scott Mangiafico

Also Present: Earledean Wells, Planner Jim Noel, Town Manager Jon Carter, Town Council Chairperson Ann Grinnell, Councilor Frank Dennett, Councilor Matt Brock, Councilor Glenn Schwaery

**1. ROLL CALL**

Roll call noted.

**2. MINUTES**

The minutes of March 10, 2005, are reviewed and corrected.

*Ms. Kline moves to approve the minutes of March 10, 2005, as amended.*

*Ms. Gagner seconds.*

*All in favor.*

The minutes of May 23, 2005, are reviewed.

*Ms. Kline moves to approve the minutes of May 23, 2005.*

*Ms. Gagner seconds.*

*All in favor.*

**3. DISCUSSION 6:26 - 8:30**

See Action Items 7-28-05.

**4. PUBLIC COMMENT ON NON-AGENDA MATTERS (20 MINUTES)**

None. There are gentlemen here who would like clarification as to the proposed LB boundaries.

**5. PUBLIC HEARING/CONTINUATION: CIVIL CONSULTANTS FOR JAMES AND TUDOR AUSTIN, 6 LAWRENCE LANE, KITTEERY, ME. APPLICANT IS REQUESTING TO RE-DIVIDE A LOT THAT WAS CONJOINED WITH AN ABUTTING LOT IN 2001. APPLICANT IS REQUESTING TO AMEND AN APPROVED SUBDIVISION. MAP18, LOT 35, ZONED SUBURBAN RESIDENCE.**

Chairman White introduces the application.

Jim Austin added an occupancy permit. He believes everything else was taken care of before.

Chairman White and Mr. Ledgett believe the question last time from the abutter was whether there was a violation.

Planner Noel has provided a copy of the Certificate of Occupancy and a fresh note from the CEO that the property is compliant and that there are no violations at this moment in time. Planner Noel also provided the previous minutes to the Board. The Board insisted upon making certain there was no violation so that the Board would be acting appropriately in taking action on this item.

Chairman White asks for questions or comments from the Board.

None.

Chairman White asks if there was a motion in progress at the last hearing.

Planner Noel cannot find one.

Chairman White asks if there were any conditions.

*Mr. Mangiafico moves that, after reviewing the application, the Board find that it meets the Kittery Land Use and Development Code and is consistent with the Comprehensive Plan, and that the Board approve the application of James and Tudor Austin of 6 Lawrence Lane, Kittery, Map 18, Lot 35, to re-divide a lot that was conjoined with an abutting lot as depicted on a plan drawn by Civil Consultants dated April 20, 2005, sheet #1, and another sheet #1, dated the same, and on an aerial photograph, with no conditions, and the Chairman shall sign the Mylar on behalf of the Board.*

*Mr. Ledgett seconds.*

*All in favor.*

Chairman White says aggrieved parties can appeal this decision in 45 days to the Superior Court and ask that the applicant accept the minutes when they are approved as the findings of fact.

Mr. Austin agrees.

Chairman White says to get a Mylar in and it will get signed by Chairman White.

Planner Noel says that it was requested of Mr. Harmon to include the new dock on the Mylar.

## **6. OLD BUSINESS**

Mr. Mangiafico says Shepard's Cove is changing or has changed their advertisement.

## **7. PLANNER'S TIME**

Planner Noel received a Plan from Brian Rodonets with regard to We Care. They would like to know whether what they view as minor changes will require review from the Planning Board. They are not going to pursue the apartment units above the dry-cleaning area. They are going to cut off 10'. They are asking whether this is a minor lot adjustment that does not need to come before the Board.

Mr. Mangiafico says it is site plan review.

Planner Noel would agree.

Mr. Ledgett asks if they lost a parking place or two.

Planner Noel says yes and would suggest that is why they are not pursuing the apartments above. Mr. Ledgett says the front building is going away.

Planner Noel says they lost two parking spaces to the pizza shop, but it is their intent to make some arrangement to rent those spots.

Chairman White says this would be an amendment to an approved plan, with just a change in the lot line.

Mr. Ledgett says it is a deletion of a use. We need to know what they are doing. We could potentially end up with the apartments with two less parking spaces.

Planner Noel could put in the letter that it is acceptable, but that if they wish to pursue the apartment buildings, they must come back before the Board.

Ms. Kline says they were told that they could not disturb any of the cemetery.

Planner Noel says that is a real problem for these folks. He does not think that they can construct anything or excavate within 25 feet.

Chairman White thinks that is not within our purview.

Planner Noel says we had a letter from Attorney McEachern and these folks were told that. He told them that there is a gentleman who paid a substantial fine for building too close to a tomb.

Mr. Ledgett thinks that the Plan must be clearly marked.

Planner Noel does not know if there has ever been a signed plan.

Chairman White would like that addressed with the applicant. We need a record of what was approved. What seems to be proposed is flipping the property line, cutting off the front a little bit. It is not clear from this whether they would be proceeding with the apartments or not. A resolution of the parking issue would be a condition of the approval.

Ms. Kline says it was approved June 24, 2004.

Chairman White thinks it looks like a minor change to an approved plan. We would want to see an approved plan. Do we need public hearing?

Mr. Ledgett says the plan needs to say that the apartments are not approved. That needs to be changed.

Chairman White says the approval of apartments would be conditioned on proof they had permanent use of those parking spaces.

Ms. Kline says they had conditions to meet - whether they got ZBA approval, etc.

Planner Noel will talk with Mr. Rodonets.

Planner Noel shows a plan submitted by Attorney Jim Bartlett on behalf of one of his clients. The plan shows the existing driveway. It is deeded access to this property. The Burns live down on Gerrish Island. There are two homes on the property now and a significant size parking lot that they want to keep in the family. They want to sell the two homes individually and keep the parking lot for the family. The problem is that they don't meet the frontage requirement to sell those individually.

Mr. Ledgett says there is a problem with them crossing the wetland. He thinks they need a ROW that follows the existing road.

Planner Noel told Attorney Bartlett that he would run it by the Board. In all likelihood, they will have to come up with a subdivision plan and it is not going to be easy. They have plenty of property to have two dwelling units.

Mr. Ledgett says that they do not have enough frontage.

Ms. Gagner says that we have two people with more than two houses on a driveway.

Ms. Kline says that's a homestead. That's the way it is now.

The message to send to Attorney Bartlett is that the applicant does not have legal frontage and it does not look promising.

Mr. Ledgett says it needs to be a real ROW and not cause a problem with the wetlands.

*Mr. Mangiafico moves with respect to Hill Creek Wood that the Board approved some time ago, Map 61, Lot 19A, that the two unnamed roads be given the names Abbey Drive and Izzy Lane, as noted on the plan signed June 9, 2005.*

*Ms. Gagner seconds.*

*All in favor.*

Planner Noel says that down on the Spruce Point subdivision, they want to make some lot line changes. Mr. Amsden is proposing these changes. It's pretty complicated. It allows them to readjust the building envelope so that one house not in front of the other.

Chairman White thinks this would be a good thing to send to the engineer.

Planner Noel shows where the ROW issue is. It is a hammerhead, rather than a cul-de-sac.

There is Board discussion on this issue.

## **8. OLD BUSINESS**

The Board resumes its discussion regarding where the boundaries should be for LB.

## **9. ADJOURNMENT**

*Meeting ends at 10:00 pm.*